

REMARKS

For purposes of clarity, Applicant submits the following prosecutorial history: Examiner has stated that Applicant's arguments in Applicant's "Amendment After Final Action Under 37 C.F.R. 1.116" of November 15, 2003, with respect to the rejections of Claims 3, 11, 19, 26, 34 and 42 under 35 U.S.C. 103(a), and regarding Applicant's choice of material, are persuasive. Accordingly, Examiner withdrew the rejection of said Claims, but submitted, in the current Office Action, new grounds of rejection in view of U.S. Patent No. 5,385,766 to Ferre. As such, and so as to not reiterate, verbatim, Applicant's arguments as presented in Applicant's arguments of November 15, 2003, Applicant has, in the following arguments, firstly presented arguments and amendments distinguishing Applicant's claimed method from that disclosed in Examiner cited prior art reference to Ferre, and has further, where appropriate, reiterated previously submitted arguments applicable to the rejections based upon Daller (U.S. Patent No. 2,143,844), Wikle (U.S. Patent No. 2,774,402), Daniels (U.S. 2,428,266), and/or Madderom (U.S. Patent No. 5,912,197).

Examiner has rejected Claims 3-25 under 35 U.S.C. 103(a) as being unpatentable over Daller in view of Wikle and in further view of Ferre. In response thereto, and in view of the foregoing claim amendments, Applicant presents the following arguments.

Specifically, Ferre discloses a net bag formed by a tubular mesh body 2 comprising a plastic band 30 overlying and welded to the exterior of body 2 via welds 26 and bottom weld

line 20 (see Ferre, Figures 1-8, Col. 4, lines 50-55), wherein band 30 is “suitable for containing labels or the like 40” (see Ferre, Figures 1-8, specifically Figure 8, Col. 4, lines 67-68). Applicant asserts, as is evident and clearly presented in Ferre, that the plastic band 30 of Ferre is a piece of film folded so as to form a sachet or envelop, which may be welded to the exterior of the Ferre mesh bag, and a label/advertisement slid or placed therewithin. (See Ferre, Figures 2, 6 and 7, Col. 4, lines 35-49).

Applicant respectfully asserts that the Ferre bag configuration, and method of producing a bag with label section, is impractical, as it wastes material; that is, because the Ferre plastic band 30 overlays a mesh body 2, the mesh material directly under plastic band 30 is wasted. Applicant’s bag avoids such a configuration by heat sealing the edges of Applicant’s mesh portions to the edges of a film portion, and forming an enclosure or bag from a combination of such mesh and film portions. As such, Applicant’s label section provides two functions: (1) serves as a section onto which advertisements or the like may be printed, as claimed; and, (2) further forms a load-bearing sidewall adapted to support and retain the contents of the bag. Indeed, Ferre teaches away from utilizing its plastic band 30 as a load-bearing sidewall, as Ferre discloses that “band 30 does not require reinforced strips, since it is not subjected to large stress and also a reinforcement strip would make it hard to see the label.” (See Ferre, Col. 4, lines 62-64).

Nonetheless, Applicant respectfully requests Examiner to note that Applicant has now amended the claims to distinguish Applicant’s bag and label section, and

configuration/method of joining same, from that of Ferre, by amending all Independent claims to recite, generally, that “an edge of a first open thermoplastic fabric section (or first continuous stream of open thermoplastic fabric) and an edge of a second open thermoplastic fabric section (or second continuous stream of open thermoplastic fabric) are joined to a film section (or continuous stream of film).” Applicant further respectfully asserts that Ferre, in combination with Daller and Wikle, does not disclose Applicant’s bag or method of manufacturing same.

Examiner further bases his obviousness rejection of Claims 3-25 on Wikle and Daller. Applicant notes that Examiner acknowledges that Daller does not disclose the use of “mesh” fabric. Applicant further notes that Examiner states that Wikle teaches mesh material 12 and 12’ with film portion 11. Applicant still further notes that Examiner rejects Claims 8, 16 and 23 on Wikle, stating that Wikle discloses sealing strips comprised of glue or other sealing means along overlapping edges of a bag to seal same. Accordingly, Applicant presents the following arguments and recitation of amendments to further distinguish Applicant’s invention from that cited in the prior art.

With specific regard to Examiner’s statement that Wikle teaches mesh material 12 and 12’ with film portion 11, Applicant respectfully reiterates that Wikle’s disclosure of “mesh material” (referred to in the Wikle patent as “perforate regions”) is limited to a composition comprising a “plurality of filaments crossed at right angles with a plurality of similar filaments, which are integrally connected to formed interstices or ventilating openings.”

However, Wikle does not disclose the materials utilized to form such a perforate region, nor does Wikle teach that such a perforate region could be manufactured from Applicant's open thermoplastic fabric. Additionally, the selected film material utilized in the Wikle patent is cellulosic-based, as opposed to the polyolefin-based film material utilized in Applicant's bag manufacturing method to facilitate the high-speed manufacture of Applicant's bags. As such, Applicant respectfully asserts that the materials utilized in the manufacture of the Wikle bag would not permit the Wikle bag to be manufactured via Applicant's claimed high-speed bag manufacturing method, nor would the combined teachings of Daller and Wikle result in Applicant's claimed method or the bag produced thereby in view of Applicant's selected materials. Additionally, Applicant respectfully asserts that the bag materials (in particular the cellulosic-based film material) of the Wikle patent would not be capable of bonding or sealing to Applicant's open thermoplastic material without the use of adhesives, the application of which would inherently delay or retard the overall high-speed bag manufacturing process taught by Applicant's invention. As such, and in view of the foregoing arguments, Applicant further respectfully asserts that the Wikle bag is non-analogous art.

With regard to Examiner's rejection of Claims 8, 16 and 23 on Wikle, wherein Examiner states that Wikle discloses sealing strips comprised of glue or other sealing means along overlapping edges of a bag to seal same, Applicant respectfully notes that the Wikle patent does not, anywhere in the specification or claims, teach, disclose or claim a "sealing strip" of any sort. Indeed, the only methodology of bag sealing disclosed in Wikle is that of "gluing, heat sealing, or other processes common in the bag-making art." (See Wikle, Col. 2,

lines 21-23). Applicant respectfully asserts that Applicant's thermoplastic sealing strips, as claimed and disclosed in Applicant's originally presented specification, are not glues, and were further, not "common in the bag-making art" as practiced in 1956 (i.e., the date of issuance of the Wikle patent).

Applicant's thermoplastic sealing strips are, in fact, a mechanical element not disclosed in Wikle. That is, Applicant's thermoplastic sealing strips are actually solid strips of film utilized to seal or fuse opposing edges of Applicant's bag - and more specifically, to seal or fuse the open/mesh thermoplastic fabric of Applicant's bag. Accordingly, the open spaces of Applicant's mesh material would make application of "glues", liquid or powder, as a sealing means, impractical and futile, as such "glues" would simply leak through the open spaces of Applicant's mesh fabric. Indeed, Wikle recognizes that such glues can only be utilized on solid, smooth, or "closed" bag materials, and not the perforated portions 12 and 12', as Wikle states "the smooth edges or border portions [10] of the bag, are fastened together by gluing, heat sealing, or other processes common in the bag-making art." (See Wikle, Col. 2, lines 21-23). Applicant respectfully reiterates that Wikle does not teach Applicant's thermoplastic sealing strips.

Accordingly, and to further clarify Applicant's invention, and in view of the foregoing arguments, Applicant has now amended all Independent Claims to now recite the limitation, generally, that "opposing overlapping edges of said prepared sheet are capable of being sealed via a **thermoplastic sealing strip** to form a bag having at least one opening," and that "said

bag stock is capable of being transversely sealed via a **plurality of thermoplastic sealing strips**, and cut, at pre-selected distances to form bags having at least one opening.” (Emphasis added).

Examiner has rejected Claims 26-30, 34-38 and 42-45 under 35 U.S.C. 103(a) as being unpatentable over Daller in view of Wikle and further in view of Daniels, and in further view of Ferre. In response thereto, and in view of the foregoing claim amendments, Applicant presents the following arguments.

With specific reference to Examiner cited reference Ferre, Applicant notes that the combination of Ferre with the above-referenced patents would not yield Applicant’s invention in view of Applicant’s foregoing arguments clarifying that Ferre discloses a sachet or envelope welded to the exterior of a mesh tube. Additionally, the Ferre plastic band 30 would be ill-applied to Applicant’s continuous streams of material and the transverse sealing and cutting process claimed and disclosed by Applicant, as the transverse sealing and cutting steps of Applicant’s bag-making methodology effectively creates two opposing sealed sides of a bag. If a continuous stream of the Ferre plastic band 30 were applied to Applicant’s continuous streams of material, and introduced into Applicant’s transverse sealing and cutting process, the folded plastic band 30 would effectively be sealed at opposing ends; thus, creating a completely enclosed or sealed area, preventing the insertion of any label/advertisement therewithin, and thereby defeating the purpose of same.

With regard to Daller and Wikle in combination with the teachings of Daniels, Applicant reiterates that Daniels discloses bags formed from continuous rolls of paper and scrim (the latter of which Examiner refers to as “mesh” and associates with Applicant’s “fabric sections”). However, Applicant respectfully asserts that the rolls of material of Daniels are completely different from the rolls of open thermoplastic fabric and polyolefin film materials utilized in Applicant’s bag manufacturing method (as detailed and disclosed in Applicant’s specification). That is, Daniels does not disclose Applicant’s preferred bag roll materials that facilitate the implementation of Applicant’s high-speed bag manufacturing process (i.e., rolls of open thermoplastic fabric and polyolefin film). Applicant respectfully asserts that the rolls of materials utilized in the manufacture of the Daniels bag would not permit the Daniels bag to be manufactured via Applicant’s claimed method of high-speed bag manufacturing, nor would such rolls of materials be capable of bonding or sealing to Applicant’s rolls or continuous streams of open thermoplastic material without the use of adhesives, the application of which would inherently delay or retard the overall high-speed bag manufacturing process taught by Applicant’s invention.

Applicant further asserts that Applicant’s method of high-speed bag manufacturing utilized to mass produce bags comprising open thermoplastic fabric and polyolefin films, is not disclosed in the Daniels patents, and that combination of the Daller, Wikle and Daniels patents would not teach Applicant’s claimed method nor the bags manufactured thereby. Therefore, Applicant respectfully contends that the Daniels bag and/or method of manufacturing same is non-analogous art. As such, in view of the foregoing arguments and

amendments distinguishing Applicant's invention from that of the Ferre, Daller and Wikle patents, and in view of the above arguments directed to the Daniels patent, Applicant respectfully believes that the rejected Claims are now in condition for allowance.

Examiner has rejected Claims 31-33, 39-41 and 46-48, under 35 U.S.C. 103(a) as being unpatentable over Daller in view of Wikle and further in view of Daniels, and in further view of Ferre, and in further view of Madderom. Although Applicant respectfully believes the foregoing argument and amendments sufficiently distinguish Applicant's invention from that described in the afore-referenced cited prior art, Applicant presents the following arguments, and draws Examiner's attention to the foregoing amendments, to further distinguish Applicant's invention from that of said cited prior art.

Similar to Ferre, Madderom discloses a net bag formed by a plastic mesh 12 comprising a print band 18 overlying and attached to the exterior of second side 20 of mesh 12 (see Madderom, Figure 1 and 5, Col. 4, lines 13-14), and more specifically wherein print band 18 is "sealed to mesh layer 12a on the front of the bag 26..." (see Madderom, Figure 5, lines 7-8). Applicant asserts, as is evident and clearly presented in Madderom, that the print band 18 of Madderom is a piece of film sealed to the exterior of the Madderom bag, as opposed to Applicant's bag with label section, wherein Applicant seals the edges of sections, or continuous streams, of mesh fabric to the opposing edges of a section, or continuous stream, of film.

Applicant respectfully asserts that, similar to Ferre, the Madderom bag configuration, and method of producing a bag with label section, is impractical, as it wastes material; that is, because the Madderom print band 18 overlays a mesh body 12, the mesh material directly under print band 18 is wasted. Applicant's bag avoids such a configuration by heat sealing the edges of Applicant's mesh portions to the edges of a film portion, and forming an enclosure or bag from a combination of such mesh and film portions. As such, Applicant's label section provides two functions: (1) serves as a section onto which advertisements or the like may be printed, as claimed; and, (2) further forms a load-bearing sidewall adapted to support and retain the contents of the bag. Indeed, Madderom does not teach utilization of its print band 18 as a load-bearing sidewall.

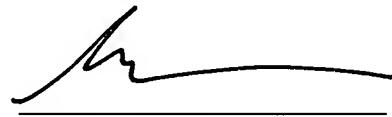
However, to clarify Applicant's bag from that of the cited prior art, Applicant respectfully requests Examiner to note that Applicant has now amended the claims to distinguish Applicant's bag and label section, and configuration/method of joining same, from that of Madderom, by amending all Independent claims to recite, generally, that "an edge of a first open thermoplastic fabric section (or first continuous stream of open thermoplastic fabric) and an edge of a second open thermoplastic fabric section (or second continuous stream of open thermoplastic fabric) are joined to a film section (or continuous stream of film)." Applicant further respectfully reiterates that Madderom, in combination with the cited prior art, does not disclose Applicant's bag or method of manufacturing same.

Finally, Applicant respectfully notes that Applicant has further amended all relevant claims to correct issues of antecedent basis; however, no new matter was added.

CONCLUSION

The above-made amendments are to form only and thus, no new matter was added. Applicant respectfully believes the above-made amendments now place the Claims and application in condition for allowance. Should there be any questions or concerns, the Examiner is invited to telephone Applicant's undersigned attorney.

Respectfully submitted this 26th day of July, 2004.



Ashish D. Patel
Reg. No. 50,177

Myers & Kaplan
Intellectual Property Law, L.L.C.
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339
Phone: (770) 541-7444
Fax: (770) 541-7448
Email: apatel@mkiplaw.com